

AMENDMENT - continued

REMARKS

Claim 1 is amended to incorporate the recitation that the particulate celecoxib in the claimed composition has "a distribution of celecoxib particle sizes such that D_{50} of the particles is less than 200 μm ". This recitation is found in Claim 85 as submitted by amendment in Applicant's response dated October 17, 2001, and finds support in the specification as filed at least at page 7, lines 15-18. Amendment of Claim 1 proposed herein is as agreed with Examiners Page and Tran during the interview on October 23, 2003.

Claims 16 and 29 are amended to add the designation "TM" to trademark names therein, as agreed during said interview.

Claims 51–71, previously withdrawn from consideration as being drawn to nonelected species, are canceled by the present amendment in order to put the present application in form for immediate allowance. Applicant may elect to reintroduce some or all of the subject matter of presently cancelled claims in a later continuation or divisional application.

Claims 72–75 are rejoined to the present application as being drawn to method of use of the composition defined in Claim 1 as amended herein, this rejoinder having been agreed during said interview.

Claims 76–83 and 91–94 are canceled by the present amendment in order to put the present application in form for immediate allowance. Applicant may elect to reintroduce some or all of the subject matter of presently cancelled claims in a later continuation or divisional application.

Claim 85 is canceled as its subject matter is now specified in Claim 1 as amended herein.

RESPONSE TO OFFICE ACTION DATED MAY 20, 2003

Following amendment as proposed above, Claims 1–10, 12–50, 72–75, 84 and 86–90 are pending in the present application.

1. Rejection under 35 U.S.C. § 103 over Black

Claims 1–50 (more correctly Claims 1–10 and 12–50) stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Black (European Patent No. 0 836 134). By agreement during the interview on October 23, 2003 and as reflected in the Interview Summary signed by Supervisory Examiner Page, the present amendment overcomes the present rejection as the particle size limitation of Claim 85 has been incorporated into Claim 1 and thereby into all claims dependent therefrom.

Also by agreement during the interview, Claims 84–90 were made subject to the same rejection as Claims 1–50. Claim 85 is cancelled by the present amendment for reasons stated above. Claims 84 and 86–90 depend from and incorporate all the limitations of Claim 1 as amended herein and are accordingly allowable if Claim 1 is allowable.

It was further agreed that rejoinder of Claims 72–75 would be permitted.

All pending claims are believed to be immediately allowable following entry of the present amendment.

2. Rejection under 35 U.S.C. § 103 over Black, Plachetka and Liversidge

Claims 76–94 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Black (European Patent No. 0 836 134), Plachetka (U.S. Patent No. 6,077,539) and Liversidge (U.S. Patent No. 5,552,160). By agreement during the interview on October 23, 2003, Claims 84–90 were removed from this ground of rejection, which relates to process claims.

The present rejection of Claims 76–83 and 91–94 is rendered moot by cancellation of these claims in the present application. However, Applicant continues to hold that these claims are patentable and may elect to reintroduce said claims in a continuation or divisional application.

As requested by Examiner Tran, this communication and its recited enclosures are being hand delivered to the U.S. Patent and Trademark Office for her immediate attention. The Examiner is respectfully requested to call the undersigned upon her review of the present response and IDS.

Respectfully submitted,

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Enclosures:

Fee Transmittal Form
Form PTO-1449
Cited art